

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ULRIKE M. WEST,

Plaintiff,

v.

No.: 6:09-cv-00631-JB/CG

NEW MEXICO TAXATION AND REVENUE
DEPARTMENT and PHILLIP SALAZAR,

Defendants.

**DEFENDANTS' RESPONSE TO THIRD MOTION FOR EXTENSION OF TIME TO
RESPOND TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT**

Defendants New Mexico Taxation and Revenue Department and Phillip Salazar respond to the Plaintiff's Opposed Third Motion For An Extension of Time to File Her Response to Defendants' Motion For Summary Judgment.

Plaintiff took the two 30(b)(6) depositions which she sought in this case on April 22 and 23, 2010. Defendants could go through the chronology of discovery motion practice in this case, the attempt to schedule and take the depositions of upper managers of Taxation and Revenue Department on one weeks' notice and the details surrounding communications with Plaintiff's counsel to accomplish those ends, but it would not serve the interests of the Court or advance this case to resolution.

Defense counsel regrets the name-calling and allegations of unethical or obstructive behavior lodged against her in Plaintiff's Fourth Motion for An Extension of Time to File An Amended Motion for Summary Judgment. Counsel declines to do so.

May it suffice to say that, by not addressing each inflammatory allegation made against defense counsel, counsel does not acquiesce in those statement, which she denies.

Plaintiff has now had a full opportunity to obtain her sought after discovery; Phillip Salazar's deposition was completed: On April 22, 2010 Salazar gave his 30(b)(6) deposition and the next day, April 23, 2010, Lynette Trujillo gave her 30(b)(6) deposition.

Through no fault of Defendants, the only court reporter available to record the depositions on the days when they were scheduled to occur by Plaintiff's counsel, was Jenifer Russin, who suffers vision limitations due to eye surgery, which effected the time in which she could produce the transcripts. The transcript for Phillip Salazar's deposition was available to both parties on May 24, 2010. The transcript for Lynette Trujillo's deposition was available on May 28, 2010.

Plaintiff's counsel contacted the undersigned and asked for "three weeks extension of time", for both Plaintiff's amended motion for summary judgment and her response to defendants' motion for summary judgment. He did not specify a date.

Given that the Plaintiff has been aware of the key issues, and has personally attended and taken the depositions, two weeks after receipt of the transcripts is sufficient time to highlight and copy those portions of transcript needed to support Plaintiff's amended motion for summary judgment and her response to Defendants' motion for summary judgment.

For these reasons, defense counsel agreed to a two week extension of time from the date when both parties received the last remaining transcript, Lynette Trujillo, for

Plaintiff to file her response to the defendants' motion for summary judgment. That date is June 14, 2010.

Respectfully submitted,

MILLER STRATVERT P.A.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was filed electronically through the CM/ECF system and was also mailed to the following parties or counsel of record this 11th day of June, 2010, via United States first class mail, postage prepaid:

Paul M. Gayle-Smith, Esq.
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Las Cruces, New Mexico 88011

/s/ Paula G. Maynes
Paula G. Maynes